

Truckee-Donner Recreation and Park District Policy Handbook

POLICY TITLE: Pre-Employment Documentation, Fingerprinting, and Background Checks
POLICY NUMBER: 232

232.10 Pre-Employment Documentation

All employees shall be required to complete or provide certain documentation prior to employment. These documents may include, but are not limited to: driver's license, application for employment, employee health questionnaire, copy of social security card or other documents required on the I-9 form, original 1-9 form, drug-free certificate, retirement beneficiary form, and employee withholding allowance certificate form W-4. Falsification of any portion of these documents is grounds for immediate dismissal without the right to appeal.

232.20 All employees, instructors, volunteers, and interns hired or being considered for a position shall be required to complete or provide the following documentation. These documents may include, but are not limited to: Section 5164 Questionnaire, health screening, proof of TB test, fingerprinting, employee rights, criminal record statement, and requirement to report suspected child abuse.

232.30 Fingerprinting and Background Checks

Policy Statement

TDRPD desires to identify prospective employees, instructors, volunteers, and interns who have a criminal history so that information about criminal history can be used in employment decisions.

a) TDRPD wishes to comply with Public Resource Code Section 5164 which requires TDRPD take reasonable steps to determine if a prospective employee, instructor, volunteer, or intern has been convicted of any crimes specified in Penal Code Section 11105.

b) TDRPD shall not consider a person who has been convicted of a felony or misdemeanor involving moral turpitude as being eligible for employment or to be a volunteer if the felony or misdemeanor is to a crime specified in Section 232.50 below as being relevant to the employment in question or in the case of a crime not actually listed it is determined by TDRPD Legal Counsel to be substantially similar in nature to those listed that a reasonable person would have had notice that such a crime would bar employment.

232.40 Authority

California Penal Code Section 11105 allows cities, counties and districts to obtain state summary criminal background information from the Department

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of Justice. The TDRPD Board of Directors has given the General Manager, Human Resources Manager, and Administrative Assistant authority to obtain such records.

232.50 Applicability

A) TDRPD shall obtain criminal background information on all prospective employees, instructors, volunteers, and interns. TDRPD shall not hire individuals if records show convictions of the following crimes of moral turpitude within ten (10) years of the date of application:

Section 68:	Asking for or receiving bribes
Section 72:	Presentation of fraudulent claims
Section 73, 74:	Bribes for appointment to office
Section 187, 189:	Murder
Section 209:	Kidnapping for ransom, extortion or robbery
Section 211:	Robbery: taking personal property in possession of someone by force or fear
Section 245:	Assault with deadly weapon
Section 261:	Rape
Section 451:	Arson of structure, forest land or property
Section 459:	Burglary
Section 484:	Theft
Section 503:	Embezzlement: fraudulent appropriation of property by a person to whom it has been entrusted
Section 518:	Extortion: obtain property by a wrongful use of force or fear or under color of official right

B) In addition to Section A above, for positions relating to interaction with minors the following areas shall also be grounds to not hire or for discipline up to and including termination.

C) Violations or attempted violations of Penal Code Sections 220, 261.5, 262, 273a, 273d, or 273.5, 288, or any sex offense listed in Section 290.

D) Any crime described in the California Uniform Controlled Substances Act (Division 10, commencing with Section 11000, of the Health and Safety Code), provided that, except as otherwise provided in subdivision (c), no record of a misdemeanor conviction shall be transmitted to the requester unless the subject of the request has a total of three or more misdemeanor or felony convictions defined in this section within the immediately preceding 10-year period.

E) Any felony or misdemeanor conviction within 10 years of the date of the employer's request under subdivision (a), for a violation or attempted violation of Chapter 3 of Title 8 of the California Penal Code (commencing with Section 207), Section 211 or 215, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of

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Section 12022, in the commission of that offense, Section 217.1, Chapter 8 of Title 8 of the Penal Code (commencing with Section 236), Chapter 9 (commencing with Section 240), and for a violation of any of the offenses specified in subdivision (c) of Section 667.5, provided that no record of a misdemeanor conviction shall be transmitted to the requester unless the subject of the request has a total of three or more misdemeanor or felony convictions defined in this section within the immediately preceding 10-year period.

F) Any felony or misdemeanor conviction under Penal Code Section 311, et seq., photographic use of children relative to sexual conduct.

232.51 Assignment Responsibility

It is the applicant's responsibility to report any conviction or arrest pending final adjudication to TDRPD. The information shall be included on all employment hire packets. Once a person has been hired under this procedure, convictions or arrests pending conviction which occur that are in the list specified for that employee under Section III above, the employee or volunteer shall report that conviction or arrest to his or her supervisor who shall forward the information to the Human Resources Manager. Alternatively, the General Manager may be informed directly.

232.60 Procedures

All prospective TDRPD employees, instructors, volunteers, and interns shall be subject to a criminal records check as a condition of employment.

a) TDRPD shall provide the prospective applicant with the appropriate request for Live Scan fingerprinting form. The applicant will take the completed form to a Live Scan operator for electronic fingerprinting. The completed electronic fingerprints will be submitted to the Department of Justice accompanied by any other forms or information required by the Department of Justice in order to obtain the criminal background information.

b) Any information obtained from the Department of Justice shall be used to determine whether the applicant shall be offered a position with TDRPD.

For any employee or volunteer who has been hired subsequent to the adoption of the policy, who passed the initial screening, the individual must sign an acknowledgement that conviction of crimes listed in Section III above under their job category or determined to be substantially similar by the District Counsel shall be grounds for disciplinary action up to and including termination. Further, any such individual has the responsibility to report any such conviction to the Human Resources Manager.

TDRPD shall enter into a contract with the Department of Justice so that any subsequent conviction or arrest information concerning an employee or volunteer that was originally hired subject to this policy may be obtained.

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a) Any information about existing employees' or volunteers' convictions and/or arrests pending adjudication shall be reported to the TDRPD Human Resources Manager.

b) Upon receipt of information regarding a conviction and/or arrest pending adjudication which is specified as not acceptable for the given position in Section III above, the General Manager and the Human Resources Manager shall evaluate the effect and potential effect of the employee's or volunteer's record or arrest on their position of employment, fellow employees and the public, and shall take appropriate action to maximize public safety and minimize potential liability while respecting the rights of the employee or volunteer.

232.61 Who must be fingerprinted

All employees, instructors, volunteers, interns and/or applicants can, and must be fingerprinted and results reviewed prior to starting duties with TDRPD.

232.70 Confidentiality

State summary criminal history information is confidential and shall not be disclosed, except to those individuals designated to make employment decisions.

a) Pursuant to California Penal Code Section 11077 the Attorney General is responsible for the security of Criminal Offender Record Information (CORI) and has the authority to establish regulations to assure the security of CORI from unauthorized disclosures. The following are requirements as prescribed by the State of California, Department of Justice, Bureau of Criminal Identification and Information, Field Operations and Record Security for any agency that maintains or receives criminal history information.

b) Record Security: Any inquiries regarding the release, security or privacy of Criminal Offender Record Information (CORI) are to be resolved by the Human Resources Manager.

c) Record Storage: CORI shall be under lock and key and accessible only to the Human Resources Manager and Administrative Assistant who shall be committed to protect CORI from unauthorized access, use or disclosure.

d) Record Dissemination: CORI shall be used only for the purpose for which the Human Resources Manager requested it.

e) Record Destruction: CORI and copies of the same shall be destroyed after employment determination has been made in such a way and to the extent that the employee's name can no longer be identified.

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f) Record Reproduction: CORI may not be reproduced for dissemination.

g) Training: The Human Resources Manager and employees with access to CORI are required to read and abide by this policy, to be fingerprinted and have a clearance check completed, and to have on file a signed copy of the Employee Statement Regarding the Use of Criminal Record Information, which acknowledges an understanding of laws prohibiting misuse of CORI.

h) Penalties: Misuse of CORI is a criminal offense. Violation of this policy regarding CORI may result in suspension, dismissal, and/or criminal or civil prosecution.

232.80 Monitoring of this Program

The Human Resources Manager will monitor compliance with this policy and all other Department Superintendents and Managers shall assist the Human Resources Manager as needed.

232.90 References

California Penal Code
www.leginfo.ca.gov/calaw.html